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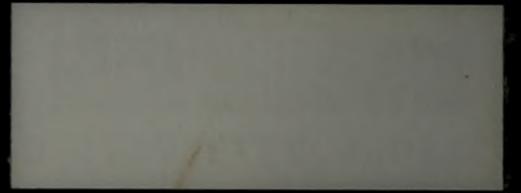
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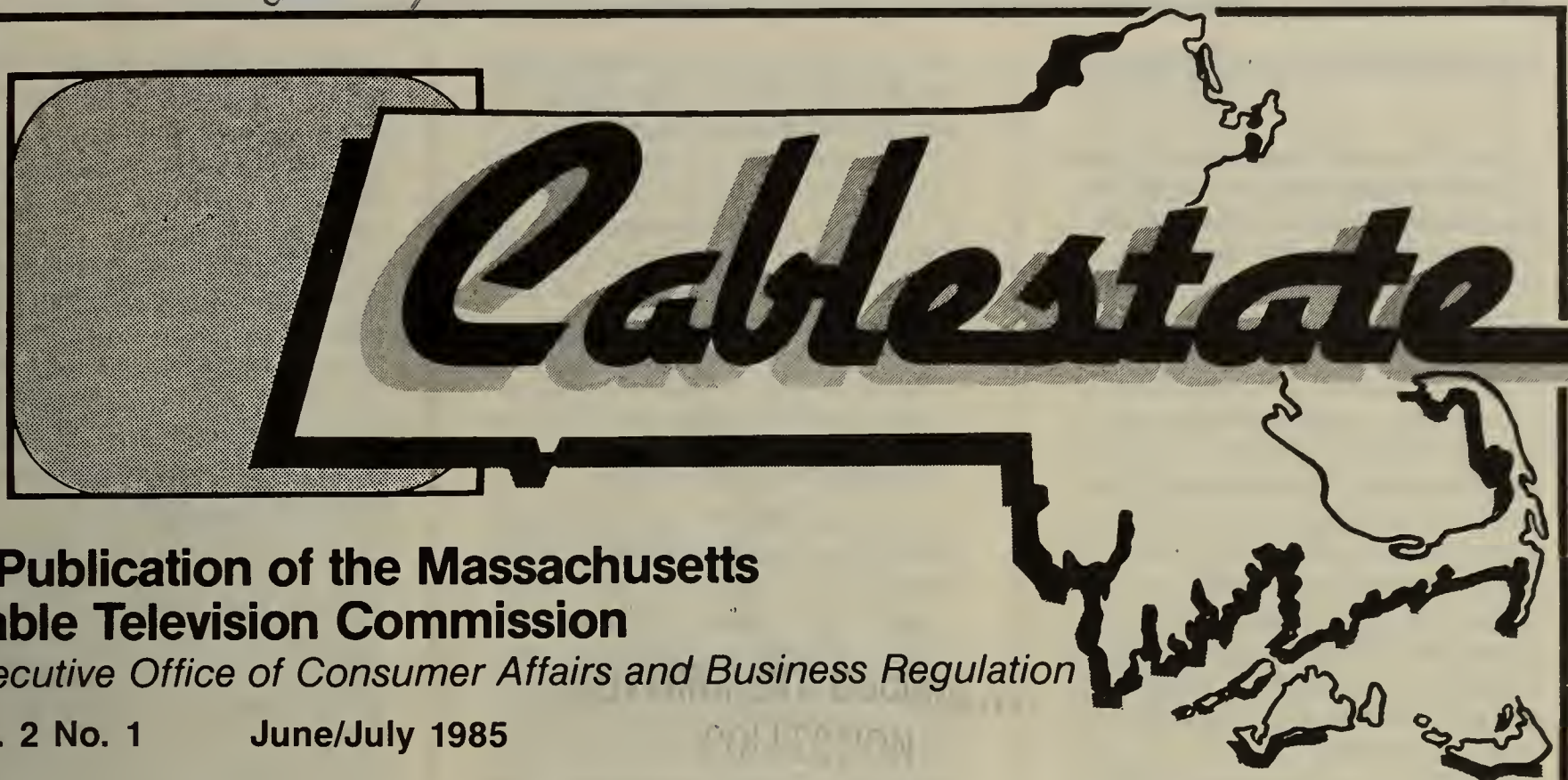
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Living with the Cable Communications Policy Act of 1984

Analysis by Howard Horton

At its final session on October 11, 1984, the 98th Congress passed the Cable Communications Policy Act of 1984 (CCPA). In so doing, Congress gave its approval to a comprehensive legal framework for cable television regulation and development. Like the broadcast industry's predecessor law, the Communications Act of 1934, the CCPA will be further articulated through Federal Communication Commission rulemakings and judicial interpretation of its many provisions. As compared to the earlier Communications Act, which is primarily concerned with the powers and duties of the Federal Communications Commission in respect to its licensing authority over broadcast stations, the CCPA is concerned with defining the duties and powers of states and municipalities which act as the licensing authorities for cable systems.

The FCC has long recognized a system of state and municipal licensing of cable and this tradition has now been codified in the CCPA. The licensing authority of municipalities is

manifested in the power to collect franchise fees, require access channels and facilities, specify construction standards and provide certain consumer protections for cable subscribers. The cable industry's gains through the CCPA seem to include rate deregulation, greater discretion in signal carriage (except for must-carries), and greater certainty and predictability in license renewals.

The question of who benefits most from the CCPA, the municipalities or the cable industry, prompts predictably different responses from industry and municipal spokespersons. Some industry officials see the CCPA as a kind of "Magna Carta" for cable, particularly in light of rate deregulation. Other operators, however, abhor the Congressional vesting of licensing authority in municipalities and see municipal requests for access as an infringement on their 1st Amendment rights. Some municipal officials praise the CCPA for firmly implanting rights in cities to require franchise fees and impose consumer protections. Others, however, feel that the law will hurt the public by affording too much program control to the cable

operators and may ultimately cause cable rates to sky-rocket.

Whether the CCPA is a "win, lose or draw" may not be so much a matter of which side you are on, but how you play the game. To be effective in addressing cable television concerns at a system level, Massachusetts cable operators and municipal officials should attain a working knowledge of the CCPA, particularly at the stages of initial licensing and license renewal. It is also important to understand how the provisions of the CCPA interact with state regulations.

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Commissioner's Corner

Over the past several months the Commission has been attempting to bring its operations into line with the authority circumscribed by the Cable Communications Policy Act of 1984. A number of important issues are affected by this historic legislation including license renewals, public access and consumer protection. To help Massachusetts operators and municipalities understand the impact of this new legislation, the Commission is planning a one day seminar to be held at Boston University on June 14th. Further information on the seminar appears in this issue of *Cablestate*. I encourage you to register as soon as possible as we have limited capacity for this event.

The Commission has also undergone some staff changes in recent months. Barbara Cuggino who many of you knew for her work with the Commission to develop local programming has joined Continental Cablevision in the management division. She has been replaced by Kim Kyle who comes to the Commission from the Museum of Fine Arts. The Commission has also hired a new legal counsel, William August, who formerly served as General Counsel for the Newton based organization, Action for Children's Television. Robert Shapiro, the Commission's General Counsel, has taken a position as Counsel for the Department of Public Utilities, a parallel agency within the Executive Office of Consumer Affairs and Business Regulation. And on a personal note, my responsibilities have expanded, with the birth of my son, Allin, on February 14, 1985.

Over the next few months the Commission will be reviewing its activities in the consumer protection area. While we continue to intervene on behalf of disgruntled cable subscribers, we are also analyzing trends in consumer problems to see if any can be remedied through regulatory provisions. One key area of concern is billing and termination. I expect to issue a notice of proposed rulemaking in this area very shortly.

You will also note that we are holding our Second Annual Contest for Community Television in Massachusetts. We hope you will participate by sending in your programs. We

will announce the winners at a planned banquet sometime in October. Hope to see you there.

Yours very truly,

Rosalind A Niles
Commissioner

Regulatory Affairs

Billing and Termination Advisory Board

In the Fall of 1984, a Billing and Termination Advisory Board was appointed by Paula W. Gold, Secretary of Consumer Affairs and Business Regulation and Commissioner Rosalind A. Niles. The Board, which was comprised of 9 representatives of cable operators, municipalities and consumer groups, was appointed to examine cable television billing and termination practices in the Commonwealth. The Board has issued its final report, which summarizes the Board's investigations into problems arising from advance billing, late payment fees, billing disputes and errors, and disconnection practices. The final report of the Board indicated that a majority of Board members favor the adoption of consumer regulations which would, at a minimum, require cable television companies to disclose their billing and termination practices to new subscribers. The Commission has studied and reviewed the Advisory Board report and has determined that a notice of proposed rulemaking will be issued.

Converter Deposits

On January 30, 1985, the Commission received a petition to amend its security deposit regulations from the New England Cable Television Association (NECTA). Specifically, NECTA requested deletion of the sections which require the operators to deposit any security deposits in an escrow account, and to supply the Commission with the name of the bank and the number of the security deposit account within ten days of the opening of any escrow account.

On April 8, 1985, the Commission issued an Order granting NECTA's request for a stay of the enforcement of these sections pending the Commission's evaluation and ruling. The

granting of the stay was contingent upon operators (1) supplying the Commission with the numbers and amount of deposits collected and (2) obtaining a 90 day bond to protect subscriber deposits.

The Order also states that the Commission will be proceeding with the required steps for a possible amendment of these rules as soon as a hearing date can be selected and confirmed by the Commission.

COMMISSION ADVISORY NOTICE Renewal Procedures

On March 22, 1985, the Commission issued an Advisory Notice in *Cable Bulletin* Number 15, which explains the current operating procedures for license renewal in Massachusetts. The issuance of the Advisory Notice was necessitated by the passage of the Cable Communications Policy Act of 1984 (CCPA), which became effective on December 29, 1984. The issuance of the Advisory Opinion was in response to the inquiries that the Commission had been receiving from municipalities and operators as to how to proceed on license renewals in light of both federal and state regulations in that area. The Advisory Notice provides an outline of the renewal procedure which municipalities and operators should be able safely to follow until the Commission has the opportunity, in the near future, to propose comprehensive renewal regulations which would be consistent with the CCPA.

Any interested party who has not received a copy of the Advisory Notice should contact the Commission for a copy.

Waltham Investigation

On April 8, 1985, the Commission also issued a decision *In re Commission's Notice of Action to Waltham Tele-Communications Regarding Alleged Deficiencies in Waltham Tele-Communication's Filing of the Commission's Form 100*, (Docket No. NA-1). The allegations had come to the Commission's attention in Adams-Russell's Motion to Amend its Appeal which was filed after its appeal had been dismissed by the Commission on untimeliness grounds. See *Memorandum and Order on Appellees-Mayor of the City*

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Waltham Investigation

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of Waltham and Waltham Telecommunications' Motion to Dismiss, Docket No. A-41.

On January 11, 1985 the Commission conducted its investigatory hearing into the allegations and, on April 8, the Commission ordered that the matter not be further pursued. The Commission found that WTC had fully and truthfully completed the Commission's Form 100 and that there was no substance to the allegations raised before the Commission.

Appeals

The Commission is currently processing licensing appeals in East Bridgewater (2 appeals pending) Bridgewater, and Seekonk. Nashoba Communications Limited Partnership No. 5 had filed an appeal of the award of a license in Marblehead to Continental Cablevision, Docket No. A-52, but Nashoba withdrew this appeal on April 18, 1985.

Legislative Update

The following is a summary of the status of a number of cable bills filed this year. These bills have been considered by the Government Regulations Committee of the State Legislature.

Franchise Fees

S-873 (Bertonazzi), S-1540 (Amick), H-2537 (Mackey), H-2755 (Galvin)

These bills would raise franchise fees payable by cable operators to municipalities and to the state and would raise license application fees. Galvin's H-2755 has been reported to the House Ways and Means Committee as the lead bill. It would increase fees payable to municipalities and the state to, respectively, 2% and 1% of gross revenues. Under a local option provision towns and cities could retain the existing 50¢ per subscriber revenue requirement. Local franchise fees from licensees subject to rate freezes would not be raised until the expiration of the freeze.

License Renewal Period

S-163 (Norton), H-4428 (Ambler)

These bills would lengthen the maximum license renewal term from ten to fifteen years. The Committee has recommended S-163 favorably to the Senate.

Obscenity

H-2756 (Galvin), H-4443 (Ruane)

H-2756 purports to authorize the negotiation by towns and cities of cable license provisions prohibiting "indecent or obscene material." "Indecent or obscene" is defined as material which is "patently offensive" under "contemporary community standards." H-4443 would prohibit the showing of so-called X-rated movies on cable and broadcast television. H-2756 has been recommended to the House.

Landlord - Tenant Cable Rights

H-4033 (Correia)

This bill would clarify the respective rights of landlords and tenants with respect to cable TV. It would prevent landlords from barring cable company access to a building, but would also provide landlords with an administrative scheme for seeking reasonable compensation from the cable company for any damages resulting from cable installation.

Customer Service

S-1541 (Amick)

This bill would require 24 hour telephone accessibility to cable company service offices; service visits within 48 hours of subscriber calls; and installation within 14 days of solicitation. Company failure to meet its timetables would result in credits or rebates being payable to subscribers. The bill has been designated for "recess study".

Commission Sets Agenda

The recent enactment of the Cable Communications Policy Act of 1984 (CCPA) has played a central role in the formulation of the Commission's legislative agenda for 1985. The significant impact of the Federal law upon most facets of state cable regulation has prompted the Commission to propose certain necessary amendments to the enabling statute. At the same time, the rapid growth of cable television in Massachusetts and the problems arising from that growth present a pressing need to revise State cable laws.

In short, the Commission's legislative proposals attempt to define and clarify the Commission's role after the CCPA and, simultaneously, update the statute in order to reflect the current Massachusetts climate. The Commission is interested in effecting

change in five important legislative areas, as follows:

(1) **Purpose Clause** - The Commission has been generally hampered by the glaring absence of a purpose clause in the cable statute. The insertion of a purpose clause would support the Commission's ability to promulgate consumer regulations and enforce license compliance.

(2) **Franchise Fees** - At present, Massachusetts law requires operators to pay a franchise fee of eighty cents per subscriber per year to the State and fifty cents per subscriber to the municipality. The CCPA, however, allows municipalities to collect up to five per cent of a cable operator's gross revenue as an annual franchise fee. If the current State franchise fee structure remains unchanged, the Commission believes that Massachusetts communities will continue to lag considerably behind other municipalities in the ability to encourage access programming, establish efficient cable administration and generally promote development of cable on a local level. Therefore, the Commission supports legislation designed to enable Massachusetts to collect cable franchise fees commensurate with those collected elsewhere in the nation.

(3) **Compliance** - While current State law enables the Commission to informally negotiate license compliance questions or revoke a license in cases of extreme non-compliance, the Commission supports legislation that would provide formal license adjudication hearings. Under this proposal, the Commission could entertain compliance petitions filed by operators or issuing authorities and would be empowered to levy fines for violations of Commission orders.

(4) **Access to Rental Property** - Currently, state law prohibiting a landlord from receiving compensation for allowing cable installation stands in direct conflict with the United States Supreme Court's decision in *Loretto v. Teleprompter Manhattan CATV Corp.*, 485 U.S. 419. The Commission supports legislation that would establish a framework for compensating landlords and, at the same time, remove the rental housing access problems that have served to inhibit the growth of cable in Massachusetts.

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Commission Sets Agenda

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(5) The Commission's role in the regulation of license renewal has been diminished in scope by enactment of the CCPA. While the Commission's 1982 renewal regulations have, in most part, been pre-empted by the Federal Act, the CCPA does vest administration review powers in the State. Consequently, the enabling statute should be revised in order to accommodate this new role.

In summary, the Commission's legislative agenda has been formulated with an eye towards continuing a productive and rational statutory scheme in Massachusetts. The changing cable environment requires that Massachusetts cable laws be updated to reflect the concerns of both a growing subscriber population and a vital burgeoning industry.

CCPA

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The Impact of the Cable Communications Policy Act of 1984 on Massachusetts

The CCPA has already had an impact upon a number of operating cable systems in Massachusetts. For example, as provided in the Act:

- A number of cable operators in regulated systems have raised their basic rates by 5% without obtaining local or state approval;
- A number of operators have notified their subscribers about their privacy rights under the CCPA;
- Some system operators who were pressuring for cutbacks in access funding before the passage of the CCPA, have dropped their efforts as a result of the "grandfathering" provisions for access found in the Act.
- Operators and municipalities with license expirations in the next few years have begun to prepare for license renewals in light of the new federal requirements.

For those looking for more dramatic changes in the Massachusetts cable landscape as a result of the CCPA, a longer wait may be required. In some of the major areas covered by the Act, Massachusetts law already contained similar provisions found in the CCPA. In the areas of rate deregulation, license renewal, and theft of service, Massachusetts law actually

served as a model for the CCPA provisions. In the areas of access, signal carriage, privacy and system construction, many Massachusetts cable licenses already have provisions which comport with the new federal structure. However, even subtle changes between prior law and the CCPA may ultimately have significant impact upon the rights of operators, municipalities, subscribers, local programmers and entrepreneurial ventures in cable. On the whole though, dramatic changes in cable will more likely be brought about by changes in technology, competition from other sources of video programming and new marketing strategies.

The impact of the Cable Communications Policy Act on the Massachusetts regulatory structure can be divided into a number of different categories. First, where there is a direct allocation of authority, i.e., system construction standards or consumer protection provisions, the state and localities can impose requirements on cable operators with relative ease. Second, where maximum parameters are established, as in license fees, the state and localities can negotiate or impose requirements within these limitations. Third, where the Act is specifically preemptive in nature, any conflicting state law or license provision must be excised, unless a "grandfather" provision is found in the CCPA. An example of CCPA's preemptive effect in Massachusetts is the lifting of the ban on newspaper cross-ownership of cable systems in their major circulation area. Lastly, even though there may be federal law on a given point, if there is state law covering the same provisions, the impact can be additive in nature. For example, in addition to the Massachusetts remedies available to cable operators for theft of service, the CCPA provides a remedy against any person who intercepts or receives or assists in intercepting any communications service which is provided over a cable system unless authorized to do so by the operator. This includes manufacturers and distributors of equipment as well as individual subscribers. The federal law provides for up to \$25,000 in statutory damages, the Massachusetts law (MGL Chapter 166 Section 42A), provides for a criminal fine of up to \$2,000.00.

This article will briefly cover some areas of concern about which the Commission is contacted frequently.

Rate Regulations

After a two year transition period, from December 29, 1984 to December 29, 1986, during which time rates for basic service can be raised 5% per year without regulatory approval, rates will be deregulated for all services provided that the FCC finds that there is "effective competition" to cable. This "effective competition" provision is strikingly similar to a provision in the Massachusetts cable statute (Chapter 166A) which allowed the Massachusetts Cable Commission to deregulate rates if it found "competition" to cable. The Commission adopted a standard in 1980 which provided for rate deregulation in any community which could receive 3 network affiliates in their "Grade B" contour and had less than 70% penetration. In other words, if your broadcast television reception was pretty good, cable TV was deemed to have competition. As a result, the vast majority of Massachusetts cable systems have already been deregulated. The FCC is planning to adopt a competitive standard which mirrors the Massachusetts standard, except the FCC plan does not provide for any particular penetration level. Still, the impact of the FCC's proceedings, if any, will not be felt in Massachusetts until December 29, 1986. Under the CCPA, the Massachusetts deregulation provisions have been grandfathered until that time. Therefore, the Cable Commission will continue to apply the Massachusetts deregulation provisions to new cable systems (207 CMR 6.50) for the next two years.

For regulated communities in Massachusetts, operators may raise basic rates 5% per year without approval and still apply for rate increases beyond that from the issuing authority under the procedures set out in Massachusetts regulation 207 CMR 6.00. There are, however, some rate request procedures changed by the CCPA, such as the requirement that the issuing authority respond to rate increase requests within 180 days or the increase will automatically become effective.

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CCPA

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Franchise Fees

The CCPA permits local franchising authorities to charge cable operators franchise fees of up to 5% of the company's gross operating revenues. The 5% will include any fee required of a cable system operator by virtue of its status and specifically excludes assessments applicable to all commercial entities, such as property tax. For licenses issued and renewed after December 29, 1984, the 5% will include any funds dedicated to the operational costs of access programming. For new and renewal licenses in Massachusetts, the franchise fee would, therefore, consist of the 50¢ per subscriber per year paid to the municipality, the 80¢ per subscriber per year paid to the state, and any operational costs for access. This total sum cannot exceed 5% of gross revenues. For licenses that were in effect before December 29, 1984, franchise fees that exceed 5% of gross revenues because of commitments to access funding are grandfathered and enforceable. For example, under the Boston cable license, the access corporation receives 5% of gross revenues in addition to the fees paid by the operator to the state and city. This remains enforceable under the CCPA's grandfathering provision, but would not be permissible in a new license.

A number of municipalities contend that the current Massachusetts limitation of 50¢ per subscriber is far less than what can be collected under the CCPA provision. For example, in a typical renewal license, access funding might amount to 2% of gross revenue, and the \$1.30 per subscriber payable to the city and state might amount to 1% of gross revenue. In this case there is still about 2% of gross revenue that would be available under the CCPA, but cannot be collected because of the Massachusetts strictures. The cable television industry, on the other hand has argued that the current state law limit of fifty cents must be maintained in order to offset the high property taxes that operators must pay. The debate is being carried out in the Massachusetts legislative arena (see related story-Legislative Update p. 3).

Subscriber Privacy

The date is fast approaching by which all Massachusetts cable oper-

ators must notify their existing subscribers that they have certain privacy rights. Under the CCPA, this notice must be given by June 27, 1985. It must also be given to all new subscribers upon hookup, and to all subscribers once a year thereafter. The following information must be provided to the subscriber:

1. The nature of personally identifiable information which will be collected about subscribers and how this information is used;
2. Circumstances under which disclosure may be made and to whom;
3. The period during which information is maintained;
4. The time and place where subscribers may review their own personally identifiable information on record with the operator; and
5. The limitations in the CCPA regarding collection and disclosure of information and the subscriber's right to enforce such limitations.

Signal Carriage

The problem of dropping channels primarily relates to distant signals, superstations and satellite programming. In a license calling for specifically itemized channels was in effect at the time of the CCPA's passage, a cable operator may drop these channels under certain conditions. First, if the service is no longer available, the operator cannot be held responsible. Second, if carriage of the channel resulted in increased costs to the operator because of a hike in copyright fees (in Massachusetts these channels are often WOR-NY, WPIX-NY, WON-Chicago, WTBS-Atlanta), an operator can drop these services unless a rate adjustment was made to cover the additional costs. If an operator retains the same "mix, quality and level" of services that were required at the time of the license grant, he can request a modification in the channel line-up from the issuing authority. Thus, a regional sports network could conceivably replace an ESPN (Entertainment and Sports Programming Network), whereas it would be more difficult to replace one-of-a-kind service like BET (Black Entertainment Television). For new and renewal licenses, the maintenance of "mix, quality and level" of service will give

the operator the same kind of flexibility.

Public, Educational, Government Access (PEG)

One of the significant policy statements made by the CCPA is the Congressional recognition of a right of access to cable systems for public, educational and governmental use. While this kind of access to cable was first mandated by the FCC in 1982, the Supreme Court, in *Midwest Video* (1979), held that the FCC did not have the authority to make regulations requiring access, because cable had never been construed as a common carrier by any Act of Congress. With the CCPA, Congress, while not defining cable as a common-carrier, has established a federal right of access.

Under the access provisions, the issuing authority may establish minimum requirements for the setting of channel capacity for PEG use on the residential network and for education and government use on an institutional network. In Massachusetts, these would be established in an Issuing Authority Report for new licenses, and in either renewal negotiations or a "renewal request" for renewal licenses. The CCPA authorizes the issuing authority to enforce any offer made by the cable operator to provide equipment, services or facilities which relate to use of the access channels, including any offer which the operator makes in addition to the minimum requirements established by the issuing authority.

License Renewals

On March 22, 1985, the Cable Commission issued a bulletin (#15) containing an advisory opinion concerning the interaction of the CCPA license renewal provisions with the state renewal regulations, 207, CMR 8.00 et. seq. Many systems that are currently involved in renewals, and which initiated the process less than 30 months prior to their license expiration date, are following the state regulations. Cable operators with license expiration dates more than 30 months away may avail themselves of the federal renewal procedures, but must also comply with the state renewal regulations to the extent that they may be interpreted as consistent with the CCPA.

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Cable TV In The Courtroom



By William August

The electronic media's coverage of Massachusetts court proceedings has progressed from the experimental status first conferred in 1980 to the relative security of formal judicial acceptance. After a two and one-half year pilot program in which the electronic media were themselves "on trial," and closely monitored, the state's highest court adopted permanent guidelines and a Rule of Judicial Conduct (3:09 Code of Judicial Conduct, Canon 3 (A)(7)) permitting cameras in the courtroom.

The guidelines and rule apply to "broadcasting, television, electronic recording, or taking photographs," and include the following key provisions:

- Only one stationary and mechanically silent electronic video camera or one motion picture shall be allowed. Ordinary movement of the camera head is permitted. The camera shall be positioned prior to the proceeding by agreement with the judge. Arrangements for cooperative use of equipment (pooling) shall be made without judicial intervention.
- In the absence of advance notice from the media, a judge may refuse to admit them.
- A judge may limit or temporarily suspend coverage if it appears that such coverage will create a substantial likelihood of harm to any person or other serious harmful consequence.
- A judge should not permit coverage of bench conferences, conferences between counsel, or conferences between counsel and client, motions to suppress or to dismiss, probable cause or *voir dire* (jury selection) hearings.

The Supreme Judicial Court adopted the courtroom camera rules after consideration of the report and recommendations of the Advisory Committee appointed to evaluate the experimental period. In addition to the guidelines and rule, the Advisory Committee's Report (July 16, 1982) contains practical information that may prove useful in preparing for courtroom cablecasting in Massachusetts. For example, the Report notes that the courthouse buildings are under the control of the County Commissioners, not the courts, and that electrical service and space problems often have to be worked out by the media with the Office of the County Commissioner.

The guidelines represent an attempt to balance competing interests. On one hand, they reflect the modern recognition of the great public interest in enhancing public understanding of, and access to, the judiciary. On the other hand, the guidelines seek to preserve the integrity of the judicial process by vesting broad discretion in the judge to prevent harmful coverage. Although the Massachusetts guidelines do not specify the factors to be weighed in determining harm, other jurisdictions have enumerated the following relevant considerations: the impact of the coverage upon the safety of any party, witness or juror; the privacy of any party or witness; the impact upon the right of any party to a fair trial. The Advisory Committee Report recommended that such broad discretion be vested in the bench because "it is impossible to anticipate the variety of situations which could occur during a trial that may require coverage to be suspended." It should be noted, however, that the judge must find a "substantial likelihood" of harmful consequence before suspending coverage. Moreover, the Committee's understanding is that "under the procedures presently being followed in our courts, such action would not be taken until the judge had given the media an opportunity to be heard in the matter, and the judge thereafter had made findings in support of his action."

The media must diligently avoid abuse and intrusiveness or face the risk of the courts' striking a new balance between the competing interests of media access and judicial process. Public skepticism about the media's role may easily be inflamed by media failures such as occurred in the coverage of the notorious Fall River "Big Dan's" rape trial. In the course of its coverage of that trial, a Rhode Island TV station indiscreetly broadcasted a rape victim's name. It is important to note that the new era of cameras in the courtroom has not yet dawned on the federal criminal court system. The landmark U.S. Supreme Court case on the issue, *Chandler v. Florida*, 449 U.S. 560 (1981), merely permitted coverage of state court proceedings, but left intact the ban on electronic media in the federal courts. It is probable that the cable and broadcast experiences in the state courts will impact the federal judiciary's future handling of the media access question.

Copies of the rule and guidelines can be obtained by contacting William August at the Massachusetts Cable Television Commission.

Telemetry Monitoring: Meter Reading Over Cable

By Robert J. Lottero

Telemetry monitoring and control is the sending and receiving of radio signals carrying data over cable television channels for purposes of monitoring and/or controlling any system or operation. Over-the-air radio telemetry monitoring and control systems have been with us for many decades, in applications as diverse as commercial airplane guidance systems and model airplane remote radio controllers.

While cable-based telemetry meter reading systems are technologically feasible, the economics of reading meters automatically vs. traditional methods should be evaluated in each community's particular conditions.

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Telemetry Monitoring

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I would suggest developing a pilot demonstration project to illustrate both the technology and cost-effectiveness of cable telemetry reading vs. manual methods. Channel capacity on the entire subscriber network should have to be reserved so that the city could, if the pilot project proved satisfactory, expand the system to read all meters in the city. In addition, capacity should also be provided on the institutional network to transfer data between the cable operator's headquarters and public utility offices. In St. Paul, NTI* recommended that the operator reserve 6MHz of channel space for both upstream and downstream transmission on the residential cable. This capacity would be adequate to read electric, water, and gas meters at over 100,000 locations. We also recommend that two similar channels be provided on the institutional loop.

The present meter reading/billing procedure in most utilities is as follows: a meter reader goes to each meter location, reads the meter, enters that reading in a meter book and subtracts that figure from the previous reading from the last filling period. After each route is read, the books are returned to the office where a keypunch operator enters the water use data for the period into the computer which then prints the bills.

There are several opportunities for error in this method as well as several steps which could be eliminated and thus improve overall efficiency. Errors can occur in reading and transcribing the dial indication onto the meter book. The reader can make subtraction errors. The keypunch operator can make transcription errors in transferring the data from the meter book to the computer. Ideally, we would like the computer to read the meter, subtract from last month's reading, compare the period's use with previous billings to insure consistency, and then print the bill.

Potential savings to a utility using telemetry involve reducing costs in the primary functions of inspection and reading, and consumer billing. Unit costs for reading and billing can be reduced by up to $\frac{2}{3}$ and $\frac{1}{3}$ respectively. Additional benefits include increased flexibility in billing schedules (meters could be read monthly

rather than quarterly), spotting theft of service problems, locating outages, doing initial/final read on apartment buildings, and improving cash flow by increasing the billing/collection frequency.

The first steps a municipality should take in considering new cable applications such as telemetry is to commission a feasibility study for each attractive option. This need not be expensive. Typical costs for such investigations should range from \$7,500 to \$25,000 per option studies. This should provide firm footing for the next logical step, a pilot project.

Although pilot projects have been conducted by vendors for most cable communications applications at one time or another, those projects have typically been initiated to either prove or develop the particular technology. What I am suggesting is a *demonstration-type* pilot project. Installation, operation, and maintenance problems can be identified and solved, and efficient procedures developed. Also, particularly in the case of residential meter reading, the acceptance and cooperation of the public can be measured and evaluated. Only after a successful pilot project should the decision be made to expand to full scale operation.

Since systems developed for cable telemetry applications have just recently reached the market, vendors are ready to actively participate in pilot projects as a marketing strategy. Many may be willing to provide special prices and free engineering assistance expecting that a successful pilot project may mean a future sale.

An important point, but one which is sometimes overlooked in the planning of a CATV pilot project, is to be sure to include representatives of your cable television company in planning sessions. At the very least, cable telemetry will involve additional electronics at their head-end or hub location and could involve significant modifications and interconnections to the cable system. A project which appears to be feasible may prove to be impractical due to the particular cable system design in your community. If city personnel don't speak "cable-ease" you may want to retain a consultant who does and can translate the city's objectives into specific requests with regard to spec-

trum, equipment, and system interfacing.

The future for cable-based telemetry monitoring and control applications looks bright, the technology is here, and those cities who do their homework may be well rewarded.

*Northern Technology, Inc. (NTI)

Robert J. Lottero is President of Northern Technology, Inc. of Jefferson, New Hampshire. This article was drawn from materials distributed at NLC's special seminar on "New Applications of Cable Television" at the Congress of Cities in New Orleans, November 26, 1983. For more information, call (603) 586-4383.

CCPA

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The federal procedures call for a two-stage process which begins 30 to 36 months prior to expiration of a franchise. The initial renewal phase calls for a review of the licensee's past performance and an identification of the community's future related needs. The issuing authority may then specify certain information it wants the operator to provide in its renewal proposal, and it may set a deadline for submission.

The issuing authority must either grant renewal or issue a preliminary denial of the renewal proposal within 4 months after the completion of the initial ascertainment phase. If denied, a cable operator may request a formal hearing. The issuing authority must then make a renewal decision on four factors:

- substantial compliance with the laws and material terms of the franchise;
- the quality of technical and customer service in light of community needs;
- the operator's financial, legal and technical ability to fulfill his promises; and
- the reasonable ability of the proposal to meet future cable related needs, considering the cost.

Under the CCPA, the Cable Commission, as the state administrative body overseeing cable television, can review any municipal decision before it becomes final. At this point, the Commission plans to confine its review to procedural matters, rather than intrude into the substantive

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decision-making of the issuing authority. Denials of renewals on substantive grounds may be appealed by an operator to state or federal court. The Commission is currently considering proposed revisions to the renewal regulations to the ends of incorporating the new federal requirements and providing greater procedural coherence.

The Cable Communications

Policy Act —

Constitutional Challenges Down the Line?

With the CCPA's ink barely dry, some cable industry executives are finding premature solace in a judicial trend which they claim, might result in a finding that the Act's grant of franchising authority to municipalities is unconstitutional.

Two recent U.S. Appeals Court Decisions have focused the spotlight on cable operator's First Amendment rights. Both cases, *Preferred Communications, Inc. v. Los Angeles* (9th U.S. Circuit) and *TCI of Key West v. U.S.* (D.C. Circuit), involved cable operators who had been denied franchises by government authorities which had awarded franchises on an exclusive basis to others. On appeal, both cable operators urged, among other things, that government authorities, under the First Amendment, do not have the right to restrict access to the public ways in such an exclusive manner. In remanding the cases to the lower federal district (both of which upheld exclusive franchising), the Appeal Courts said that the use of the public ways for stringing cable does not necessarily give the government the right to restrict operation to the highest or best bidder. In *Preferred*, the Court likened grants of a license to a government licensing of newspapers — something which would clearly violate the First Amendment. The Appeals court rejected, as inapplicable, the scarcity of airwaves rationale used to justify governmental licensing of broadcast stations. The Court also questioned Los Angeles' contention that limited space on utility poles for cable equipment justifies the restriction to a single cable operator. Neither case finally settles these important issues as both courts remanded to the lower courts for fuller consideration.

For a number of years now, some industry executives have been pushing the idea of giving cable operators

First Amendment rights similar to rights enjoyed by newspapers. Viewing cable operators as "electronic publishers," these executives argue that cable should be free of government regulation, specifically requirements for access, franchise fees, mandated signal carriage, and other regulations of programming. (Fairness doctrine, equal opportunities for candidates, etc.) The proponents of this viewpoint have ballyhooed the recent Supreme Court decisions as a step toward this unrestricted status, one which allows cable operators to run their lines over public ways without governmental controls.

In contrast, those who favor regulation of cable believe that cable's monopolistic characteristics require at the very least consumer protection and argue that these decisions have not fully explored the public interests involved. Indeed, a major issue not finally settled by either case is whether cable is a natural monopoly, thus requiring regulation. The latter view is premised on a theory that generally only one system can be economically supported in a given community. In 99.9% of the cabled communities in the U.S., only one operator supplies the service. In Massachusetts, where licenses are by law non-exclusive, the fact that cable operators have not initiated the licensing process in already cabled communities is empirical evidence of the economic scarcity argument. (In Massachusetts, any cable operator can file for a license in any community, at any time.) Another argument which must be considered is the concentration of ownership of a large number of channels by a single entity in a given community.

One must also consider that the Congress has spoken on this issue with the enactment of the CCPA. The Act specifically provides for certain limitations on cable operator's 1st Amendment rights by providing for municipal regulation and for access. The legislative history explains that such measures expand the public's freedom of speech. In any event, until the *Preferred* or *TCI* decisions reach the Supreme Court, or until a direct challenge is made to the constitutionality of the CCPA, its provisions remain controlling.

While many operators have heaped praise on these decisions, a

cautious few have also recognized a potential Trojan Horse. At the last annual convention of the New England Cable Television Association (NECTA); Stephen Effros, Director of the Community Antenna Television Association remarked that the industry should use care in its judicial pursuits not to "shoot itself in the foot." Effros used the example of the *Midwest Video* decision which was expected to eliminate access channel requirements, yet opened the door for even greater access demands on cable operators.

While the cable industry may see unrestricted 1st Amendment freedoms as an escape from regulation, it can ill afford to disregard the possibility that new entrepreneurial ventures may enter the market, move at will and overbuild existing systems. The potential undercutting of the subscriber base could result in a certain reluctance on the part of lending institutions to finance renewal rebuilds. And subscribers may actually find the prospect of several competing cable companies in one community to be in their best interest.

While these recent cases offer ground for speculation as to what will occur in the future, one thing remains certain. The Supreme Court will ultimately have to determine cable's First Amendment rights, as it has already done with broadcasting and newspapers.

CCPA Seminar

Conference Auditorium — George Sherman Union

8:30 — 9:15 **Registration**

9:15 — 9:50 **Greetings**

Commissioner
Rosalind A. Niles

Program Notes

Howard E. Horton,
Executive Director,
Cable Commission

Message from the University

Russel Jones,
Vice President,
Academic Affairs,
Boston University

Keynote Address

10:00 — 11:00 **Access to Cable**
Howard E. Horton,
Moderator,
Martin Kessel,
National Federation
of Local Cable
Programmers

Jean Rice,
Rice Associates

Thomas K. Steel, Esq.,
Vice-President and General
Counsel, New England
Cable Television
Association

11:15 — 12:15 **License Renewals**

Robert D. Shapiro, Esq.,
Moderator

General Counsel,
Cable Commission

Charles Beard, Esq., Foley,
Hoag & Eliot

Paul R. Cianelli, Esq.,
President, New England
Cable Television
Association

Kenneth K. Spigle, Esq.,
Law Offices
of Kenneth Tatarian

12:30 — 1:45 **Luncheon**

Large Ballroom

2:00 — 2:20 **Guest Speaker**

from the New York State
Commission

2:30 — 3:30 **General Licensing
Considerations**

Construction
Rates
Compliance
Signal Carriage

William August, Esq.,
Moderator Counsel, Cable
Commission

Jacques C. Leroy, Esq.,
Asst. Secretary of
Consumer Affairs,
Commonwealth of
Massachusetts

Roni Lipton, Vice-
President, American
Cablesystems

Howard Symons, Esq.,
Senior Counsel, House
Subcommittee on
Telecommunications

3:45 — 4:45 **Consumer Issues**

Protections
Privacy
Obscenity

Colleen M. Rooney, Esq.,
Moderator Counsel, Cable
Commission

Nancy Gottlieb, Esq. Foley,
Hoag & Eliot

Linda Teagan, Esq.

Sarah E. Wald, Esq., Asst.
Secretary of Consumer
Affairs,
Commonwealth of
Massachusetts

4:45 **Cash Bar**

Seminar Notes

Registration Confirmation & Parking

All registrations received by June 7 will be responded to by a written confirmation. This will include a map of Boston University and a parking voucher if requested in the registration. This parking is available at no extra charge to registrants.

Public Transportation

The MBTA Green Line which runs back and forth to Boston College stops at Boston University — Central on Commonwealth Avenue. This is the best stop to get off at for the George Sherman Union.

Materials

All registrants will be supplied with a copy of the Cable Communications Policy Act of 1984, and other supplemental material.

Program Registration Form

Please mail directly to:

The Massachusetts Cable Television Commission
100 Cambridge Street
Boston, Massachusetts 02202

Please Print:

Name: _____

Affiliation: _____

Address: _____

City, State, Zip: _____

Phone: _____

Registration Fee:

\$25.00 in advance, if Received by June 10, 1985

\$35.00, thereafter, if capacity exists.

Make check payable to:

Massachusetts Cable Conference

Check if You Will Need Parking: ☐

Local Cable Programming

Massachusetts Ace Awards Winners



Excellence in a Program Series:

"Local Cable Sports"

Greater Boston Cable Corp.

Contact: Steven Kostant

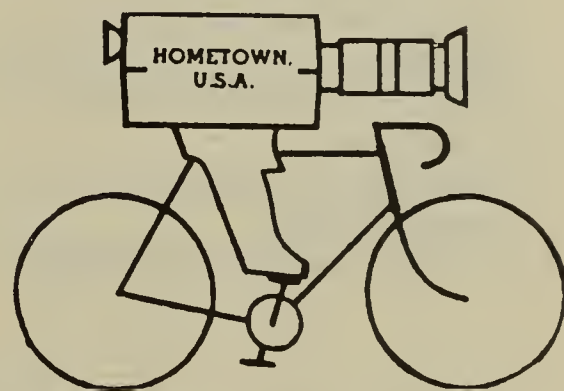
Innovative Programming:

"Big Dan's Gang Rape Trial"

Greater Fall River Cable, Inc.

Contact: Tom Church

Massachusetts Hometown USA Winners 1984



Documentary Profile/Volunteer:

"Andrew Wolf: Variations"

Jerry Murphy, Newton

Live Programming/Staff Series:

"Your Opinion Please"

Lori Cohen, Quincy

Entertainment/Volunteer Single:

"Portraits"

John Kitchner, Newbury

Programming by Chil-
dren/Volunteer Single:

Honorable Mention

"A New Kid at School"

Beverly Foley, Randolph

Institutional Network/Staff Single:

"Health Line East"

Kim Kronenberg, Boston

1984's Massachusetts Community Television Contest

Winners

Documentary/Access:

"Regatta at Springfield"
Suzanne Astofoli
Springfield Community Network

Short Documentary/Access:

"Workhouse"
Paula Zaniboni
Continental Cablevision, Saugus

Local News/Magazine/Access:

"Fortnight"
Suzanne Astofoli
Continental Cablevision,
Springfield

Election Cover/Access:

"Election Watch 18 — The Vote
'1984' "
Richard DePirro
Warner Amex Cable, Wakefield

Educational/Instructional/Access:

"Special Forces at Work: An Old
New England House"
University of Massachusetts,
Boston
Arlington Cablesystems Corp.

Sports/Access:

"A Cut Above the Rest"
Gary Sementelli
Continental Cablevision, Newton

Arts/Cultural Access:

"When the Sun Goes Down"
Neil Beaton
Newburyport Cable System

Entertainment/Variety/Access:

"Home Town Cable"
David Phillips
Continental Cablevision,
Springfield

Documentary/Local Operator:

"The Suffolk County Special
Olympics"
John Vasallo,
Assistant Production Manager
Continental Cablevision,
Watertown

Public Service Announcement

Local Operator:
"Lowell Trolley"
Sue Bennet, Program Director
Lowell Cable TV, Inc.

Local News/Magazine/Local

Operator:
"Cape II Alive"
Beth Hirons, Production
Manager
Cape Cod Cablevision

Election Coverage/Local Operator:

"Quincy Election '83 Composite"
Steve Marx, Program Director
Quincy Cablesystems

Education/Instructional/Local Operator:

"The 13th Year"
David Corkum, Program Director
Natick Cablevision Corp.

Sports/Local Operator:

"Warner Amex Basketball"
Nancy McInnis-Johnson,
Program Director
Warner Amex, Wakefield

Arts/Cultural/Local Operator:

"The Valley Big Band"
Thomas Draudt, L.O. Producer
Continental Cablevision,
Springfield

Entertainment/Variety/Local Operator:

"Under the Influence"
Steve Kostant, Program Manager
Greater Boston Cable Corp.,
Woburn

National NFLCP Conference in Boston

Boston Hosts National Local Programmers Convention

July 11-13 are the dates for the annual convention of the National Federation of Local Programmers (NFLCP) to be held this year in Boston at the Park Plaza Hotel. Each year the NFLCP brings those active and interested in local cable programming from around the country together to share their experiences and discuss issues related to all aspects of local programming and cable tv. This year the convention, Community Television Charting New

Waters, will bring over 1000 people involved with community TV from around the *world* together.

The 1985 national convention features eleven separate, special interest tracks from which participants may choose: Access Management, Local Origination and Leased access Channels, Management and Advertising, Local Government and Cable Communications, Educators and Librarians in Cable Communications, Arts and Cultural Organizations and Institutions, Barriers faced by Specialized Cable Users and Audiences, Churches and Cable Communication, International Community Programming, Advanced Issues, Cable Policy, and Programming Showcase.

In addition, pre-conference seminars will be offered on Thursday, July 11. These sessions will include: Computers and the Local Programmer, Cable Contract Modification, Franchise Renewal, Measuring your Local Programming Audience, NATOA pre-conference, Master Training in Lighting Audio, and Scripting and Editing Theory, and Facility Tours.

For more information about the convention, contact Linda DiRocco, Cultural Education Collaborative, 59 Temple Place, Boston, MA 02111, 617/338]3073, or Irwin Hipsman, Somerville Community Access Television, P.O. Box 474, Somerville, MA, 02143, 617/628-8826.

1985: The Second Annual Massachusetts Community Television Contest

The Community Television Contest has been organized to recognize the work of community based video producers and to encourage the use of local cable television channels.

Throughout the Commonwealth of Massachusetts, local cable channels are being programmed by community volunteers, by cable operator local programming staff and by members of non-profit access organizations. These local channels have expanded the meaning of television by allowing discussion of local issues and by giving exposure to local talent. Communities have a chance to see themselves and get to know themselves better through cable TV.

As the field of local cable programming expands, it is important to take the time to reflect upon what has already been accomplished and to honor outstanding achievement. This is the purpose of the Massachusetts Community Television Contest.

Categories and Awards

The first place awards will be given in each of the following categories. One will be for programming produced by cable television system operators, the other will be for programs made by community volunteers, access organizations, non-profits, schools, etc.

- | | |
|--|-----------------------------|
| • Documentary | • Local Election Coverage |
| • Short Documentary (15 minutes or less) | • Educational/Instructional |
| • Public Service Announcement | • Sports |
| • Local News | • Arts/Cultural |
| • Public Affairs | • Entertainment/Variety |

Judging

Entries will be judged by panels of video producers, cable TV programmers, and cable TV subscribers on the basis of 1) creativity; 2) direction; 3) effectiveness; 4) production values (attention paid to audio, lighting, continuity); 5) originality.

Rules

1. Entries may be produced in any format but must be submitted on ¾" cassettes
2. Entries must be received by July 31, 1985 at 5 p.m. and accompanied by an entry form.
3. Entries are free, but limited to two from each participating individual or organization. Each must be on a separate cassette accompanied by a separate entry form.
4. Entries longer than 1 hour in length will not be considered.
5. Entries must have been cablecast in Massachusetts between July 24, 1984 and July 24, 1985. They must be produced by Mass. residents or Mass. based organizations.
6. The judges reserve the right to re-categorize entries or not to make awards in a category.
7. Do not send masters. Nominees for the awards will be notified by mail.
8. All decisions by the judges are final.
9. All interpretation of contest rules are made by the Mass. Cable Television Commission.
10. Awards will be trophies, or plaques or certificates and not monetary in nature.

Announcements of Winners

Nominees for the awards will be notified by mail. The winners will be announced and presented at an Awards Banquet to be scheduled in October, 1985. Further information on the banquet will be forthcoming.

ENTRY BLANK

Name _____

Address _____

Phone _____

Mail to: Mass. Cable TV Commission
Community Programming Contest
100 Cambridge Street
Boston, MA 02202

_____ ACCESS PRODUCER

_____ CABLE OPERATOR

Category _____

Name of Program _____ Running Time _____

Cablecast Date _____ What System _____

Signature _____

Signature gives the Massachusetts Cable Television Commission the right to retain a copy of the program for public viewing in its library and other exhibitions on a non-exclusive basis. Signature means the producer has the authority to submit the videotape.

Report on 1984 Local Programming Conference

"...I propose that we do something big and remarkable in Massachusetts to prove that local programming can enrich cable..." Those were the words of the keynote speaker, Les Brown, Editor of *Channels* magazine, who opened the first of its kind in Massachusetts, the CATV Commission's Local Cable Programming Conference at Framingham State College, September 22, 1984.

The day long event was truly remarkable with 300 Massachusetts residents attending the conference. Les Brown set an optimistic tone in his keynote, challenging every community television producer to prove that local programming can improve cable by reviving the forgotten idea of localism.

This theme was echoed throughout the day, as the conference was designed to allow networking of local programming information and experiences to both the newcomer and practitioner in a wide range of workshops and primers. Morning workshops offered registrants several choices including Audience Motivation and Measurement, Educational Programming, and Advertising on Local Cable.

Primers, which were intense half hour focused discussions, followed the morning concurrent workshops. Experts in such areas as copyright, libel and political cablecasting lead those discussions.

The plenary session, Access in the Changing Regulatory Environment, ended the morning. A panel of industry representatives discussed different factors and sentiments which have influenced access in the past and which will equally impact it in the future.

Afternoon workshops included presentations about leased access, institutional networks and municipal and human service programming. A working session on program exchanging explored different options by which programs could be shared.

The event ended on the same positive note as it had started at a cash bar where information was exchanged and new friendships were formed.

Brown, in his keynote address, concluded "...if we all put our shoulders to it, there's no telling how high we can go." Certainly no better adage describes the sentiment of all who attended the conference.

received a number of complaints from subscribers who have found that their cable-ready sets cannot receive premium services such as Home Box Office (HBO) which are scrambled when they reach the subscriber's home. The only way to receive HBO in this case would be to use a converter supplied by the cable operator, thus defeating the concept of "cable-ready." Increasingly, cable operators have begun to scramble other non-premium signals such as ESPN or MTV. They have found that this tends to prevent theft of service from primary sets to secondary cable outlets.

Complicating the problem is evidence that television manufacturers' advertising, as well as that of retail stores, sometimes causes consumers to think that cable ready sets are compatible with any cable system. With the sale of VCRs, consumers are often unaware that they may need to pay for an additional cable outlet to record programming while they are watching something else.

To address these problems, the national manufacturers of cable-ready sets and VCRs have been meeting with the National Cable Television Association. But until a technological solution is at hand, consumers would be wise to consult their cable operator first before contemplating the purchase of any device to be used with cable TV. In the meantime, the Cable Television Commission's efforts will be aimed at having cable operators inform their subscribers about the use of cable-ready sets as part of their routine customer service obligations.

Cable Ready Sets Pose Problem

In an effort to understand the problems consumers are facing with using their cable ready sets and videocassettes (VCRs) in conjunction with cable, the CATV Commission held a roundtable discussion with industry representatives, municipal officials and consumer

advocates this past April. From the discussion, it appears that efforts to combat cable theft of service may be rendering subscriber's "cable-ready" television sets and remote control devices unuseable without traditional set-top converters. The Cable Television Commission has

Massachusetts Cable Television Commission

100 Cambridge Street, Room 2003
Boston, Massachusetts 02202

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Secretary of Consumer Affairs and
Business Regulation

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Commissioner

Howard E. Horton
Executive Director/Editor—*Cablestate*

University of MA Library
Government Document Collection
Amherst, MA 01002

Attn: Leonard Adams

